THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.2620 OF 2004

DATED: 18.08.2005

Vajapeyajula Prabhavathi,

W/o late Sri V.V.S.V.L.N.Murthy,

Aged about 57 years, R/o H.No.20-12,

Tadivari street, Penugonda, West

Godavari District.

...PETITIONER

The Mandal Revenue Officer, Penugonda

Mandal, Penugonda, West Godavari

District and others.

...RESPONDENTS

ORDER:

This writ petition has been filed by one Vajapeyajula Prabhavathi with a prayer to issue a writ, order or direction declaring the action of the Mandal Revenue Officer, Penugonda Mandal, Penugonda, West Godavari District, in not issuing the legal heir certificate in her favour, as illegal, arbitrary and violative of Articles-14, 21 and 300-A of the Constitution of India.

The petitioner claims that she is wife of one V.V.S.S.V.L.N.Murthy who retired from service on 31.01.1996 as Assistant Engineer in Panchayath Raj Department at Tiruvuru of Krishna District. He died on 22.08.2003 at Tiruvuru. The petitioner submitted an application to the Mandal Revenue Officer, Penugonda Mandal, on 22.08.2003 for issuance of the legal heir certificate to enable her to claim the family pension and other benefits. Her application was sent to the Panchayath Secretary, Penugonda, for verification, who in turn, raised certain queries on the application and thereupon the petitioner submitted explanation to the said queries. Since no orders have been passed on the application submitted by her till now, she has filed this writ petition invoking the jurisdiction of this Court under Article-226 of the Constitution of India.

The first respondent filed counter-affidavit. It is stated in the counter-affidavit that the first respondent is not the competent authority to issue legal heir certificate. It is further stated that as per G.O.No.276, Pt.Raj & R.D.(MOL) dept., dated 18.07.2002, the Panchayath Secretary is the competent authority to issue Nativity and Family Member Certificate and accordingly, the Panchayath Secretary has issued a Family Member Certificate to the petitioner in his reference No.10/2003, dated 27.08.2003.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader for Panchayath Raj appearing on behalf of the respondents 3 and 4.

Learned counsel for the petitioner submits that the petitioner has submitted an application for grant of legal heir certificate before the Mandal Revenue Officer, Penugonda Mandal and the said Mandal Revenue Officer, having called for clarification on certain queries, has not yet passed any orders. Therefore, the petitioner is compelled to approach this Court by way of filing this writ petition.

Learned Government Pleader for Panchayath Raj appearing for the respondents 3 and 4 submits that the first respondent is not the competent authority to issue legal heir certificate and therefore, the question of giving direction to the first respondent to issue legal heir certificate does not arise. He placed reliance on the decision of this Court in Writ Petition No.7430 of 2000, dated 01.02.2001. In the cited case, there were rival claims with regard to issuance of legal heir certificate and therefore, it was held that the Mandal Revenue Officer is not competent to grant legal heir certificate. The relevant portion of the order reads as under: -

> "The question as to who are the legal heirs of the deceased Prakash Rao may have to be decided by a competent court of civil jurisdiction. It shall be open to the parties to avail such remedies as may be available to them in law. Their rights as the legal heirs of the deceased Prakash Rao would depend upon the result of such proceedings initiated by either of the parties."

Admittedly, in the instant case there are no rival claims with regard to the legal heirship of deceased-V.V.S.S.V.L.N.Murthy. Therefore, the cited decision has no application to the facts of the case on hand.

The Mandal Revenue Officer, Penugonda Mandal, having entertained the application and called for certain explanation on the queries pointed out by the Panchayath Secretary, has to necessarily pass final orders. Keeping in view the facts stated above, I deem it appropriate to give directions to the first respondent to pass appropriate orders on the application submitted by the petitioner within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No

order as to costs.

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18.08.2005

dr